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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,421	09/30/2003	John William Geurtsen	MUCC/25	6179

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EXAMINER

PURVIS, SUE A

ART UNIT PAPER NUMBER

1734

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/675,421	GEURTSEN, JOHN WILLIAM	
	Examiner	Art Unit	
	Sue A. Purvis	1734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>30 Dec 2003</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-5, 8, 9, and 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Wochner (US Patent No. 3,709,755).

Wochner discloses a system for applying labels to articles. The system includes article conveyors (14, 15) which are adapted for imparting intermittent motion to articles by means of the turrets (10, 11). Wochner also includes a plurality of decorating stations (20, 25), each having a transfer roll (21, 27) proximate to and adapted to be in confronting relationship with selected articles being carried by the article conveyor. Each of the transfer rolls (21, 27) are associated with a web (16) including labels, and each of the articles moving on the article conveyor receives at least one label from one of the decorating stations. (See Figures 1 & 2; Col. 3, lines 19-68.)

Regarding claim 3, even though Wochner does not mention a drive system for the conveyors (14, 15), it is inherent that there must be a drive system for driving these conveyors.

Regarding claim 4, the conveyors (14, 15) are "operably coupled" to the turrets (10, 11) because the articles to be labeled are advanced to and from the turrets (10, 11) by the

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conveyors, thus the drive system of the conveyor is also "operably connected" to the turrets.

Regarding claim 5, the turrets (10, 11) along with the cut outs (12, 13) are a plurality of rotatable article holding assemblies, proximate to the decorating stations, and adapted to receive the selected article for processing by the associated decorating station.

Regarding claim 8, the turrets (10, 11) include a drive mechanism. (Col. 5, lines 23-30.)

Regarding claim 9, Wochner includes a drive system (52, 53) for driving the take-up wheel (29) and as a result the transfer rolls (21, 27). (Col. 5, lines 17-22.)

Regarding claim 11, Wochner is designed to speed up production by having more than one labeling station. (Col. 1, lines 26-32.) A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1647 (BPAI 1987). While Wochner does not discuss the speed of its labeling, it is designed to speed up labeling process and the speed of 150 labels per minute is known in the art¹, the examiner is taking the position that the device of Wochner is capable of operating at a rate of greater than 150 labels per minute because it has all the structural limitations of the claim.

Regarding claim 12, wherein the decorating stations comprise heat sources (19, 26) for enhancing application of the labels to said articles.

Regarding claim 13, the decorating stations are capable of simultaneously applying labels to articles. (Col. 2, lines 7-13.)

Regarding claim 14, the decorating stations can each apply a label to the same article. (Col. 2, lines 14-52.)

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3. Claims 1, 2, 5-7, 10, and 15-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Asghar et al. (US Patent No. 5,709,770).

Asghar discloses a system for applying labels to articles. The system includes article conveyors including a nozzle which is adapted for pivotal movement as well as axial movement with a camming arrangement for tipping the article to be label, this results an intermittent motion to articles. (Col. 3, lines 45-50; Figures 4 and 5.) Asghar teaches that a plurality of decorating stations can be used, each having a transfer roll proximate to and adapted to be in confronting relationship with selected articles being carried by the article conveyor. (Figures 8, 9, and 10.) Each of the transfer rolls are associated with a web including labels, and each of the articles moving on the article conveyor receives at least one label from one of the decorating stations.

Regarding claim 2, Asghar includes a controller operably coupled to the article conveyor and to each of the decorating stations to coordinate intermittent motion of the articles on the article conveyor along, with their tipping, with the operation of each decorating station. The intermittent motion includes a moving period and a stopping period (tipping), and wherein the stopping period substantially coincides with the application of said labels to said articles.

Regarding claim 5, Asghar includes a plurality of rotatable article holding assemblies (117, 123), proximate to the decorating stations, and adapted to receive the selected article for processing by the associated decorating station.

Regarding claim 6, each article holding assembly includes an article seat (123) beneath the article for receiving the article. (Figure 4.)

¹ Slater (US Patent No. 4,082,595) and Freedman (US Patent No. 5,516,393) are labeling devices which label at the speed set forth in the claim.

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Regarding claim 7, the article holding assembly includes a nozzle disposed above the article and in communication with an air source and adapted to contact the article in such manner as to inflate the article with air. (Col. 4, lines 10-14.)

Regarding claim 10, the stopping (or tipping) period occurs when the article is proximate to and in confronting relationship with one of the decorating stations. (Figure 5.)

Regarding claim 15, the features of claim 15 are disclosed above except the drive systems. Asghar teaches using a drive system for the conveyor, a system for the article holding assemblies, and a system for the labels and transfer roll.

Regarding claim 16-24, the features of these method claims are sufficiently disclosed in the discussion of the apparatus of Asghar.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Purvis whose telephone number is (571) 272-1236. The examiner can normally be reached on Monday through Friday 9am to 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher A. Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Sue A. Purvis', with a stylized flourish extending to the right.

Sue A. Purvis
Primary Examiner
Art Unit 1734

SP
February 20, 2005